

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

Judge's Copy

JOHN RICHARD DAE,  
Plaintiff,

CIVIL No. 1-00-00-15

vs.

WEXFORD HEALTH SERVICES, INC.,  
Defendant.

FILED

HARRISBURG, PA

U.S. District Judge Ram  
Magistrate Judge Smyse

FEB 1 2001

MARY E. DIAMOREA, CLERK  
Deputy Clerk

PLAINTIFF'S APPEAL TO THE U.S. DISTRICT JUDGE FROM  
THE U.S. MAGISTRATE JUDGE'S ORDER OF February 28, 2000

COMES NOW, the Plaintiff and pro se Counsel in the  
above entitled CIVIL Action, John Richard Dae, as a Layman Unlettered in  
Arts & Sciences of the Laws & Legal Procedures within the United  
States & now files his Plaintiff's Appeal to The U.S. District  
Judge From The U.S. Magistrate Judge's Order of February 28, 2000  
& who, avers, deposes & states:

1. The Plaintiff, a state Prisoner proceeding pro se  
commenced this 42 U.S.C. § 1983 action by filing a complaint  
on August 28, 2000. By order dated September 8, 2000, the  
Plaintiff's application to proceed in forma pauperis was granted  
and the Clerk of Court was directed to serve the Plaintiff's  
complaint in accordance with Fed. R. Cr. P. 4.

2. On November 13, 2000, the defendant filed a motion to  
revoke the Plaintiff's in forma pauperis status and a motion to  
dismiss the complaint. On November 28, 2000, the defendant  
filed briefs in support of those motions.

3. On or About December 12, 2000, Plaintiff's first motion for enlargement of time to file a brief opposition to Defendants' Motion to Revoke Plaintiff's In Forma Pauperis status and a brief in opposition to Defendant's Motion to Dismiss Plaintiff's Complaint, which this court granted on December 19, 2000, allow Plaintiff an enlargement of time until January 25, 2001.

4. On or About January 23, 2001, the Plaintiff filed his Second Motion for Enlargement of Time to file brief opposition to Defendant's Motion to Revoke Plaintiff's In Forma Pauperis status and Motion to Dismiss Plaintiff's Complaint, herein, which this court denied, without giving any reason(s) as to why it denied such, on February 2, 2001.

5. THIS IS the Plaintiff's Appeal to the U.S. District Judge From the U.S. Magistrate Judge's order of February 2, 2001, filed now, herein this case.

6. Plaintiff, in his Second Motion for Enlargement of January 23, 2001, at Paragraph No. 6, stated, as grounds for such motion the following facts, as stated below:

"Due to the fact(s) that on January 10, 2001, Plaintiff, JOE RICHARD JAE, had another mental health relapse and snapped out & tried to kill himself by trying to hang

himself from his cell heating vent and cut his right  
 and rubbed feces all over himself and his cell walls.  
 was hearing voices, he was taken out of the SMU &  
 in a cell in the Medical Observation Area at SCI  
 & then on January 14, 2001, talked with Dr. Ismael, (his  
 psychiatrist) who told Plaintiff that he felt Plaintiff was  
 unstable and may be starting to become psychotic and he asked  
 plaintiff if he wanted to sign a voluntary mental health  
 commitment to go to the mental health unit (MHU) at  
 SCI-Pittsburgh & the Plaintiff replied yes he did & he  
 sign such commitment papers and on January 18, 2001,  
 plaintiff was transferred to the MHU at SCI-Pittsburgh  
 and also due to the fact(s) that Plaintiff is in the  
 health unit at SCI-Pittsburgh and his files & papers  
 this case are up at SCI-Greene in his property  
 that plaintiff does not know how long he will be staying  
 the MHU at SCI-Pittsburgh, as there is no time limit  
 anymore on how long an inmate can stay there in the MHU, Plaintiff  
 is unable to file & serve his Reply Brief in Opposition to  
 Defendant's Motion to Dismiss Plaintiff's Complaint and  
 Reply Brief in Opposition to Defendant's Motion to Revoke Plaintiff's  
 In Forma Pauperis Status, herein this case, by the present  
 date for such of January 25, 2001, & thus, he requests  
 (60) Sixty day enlargement of time to & including March 25, 2001  
 which to file & serve his Reply Brief in Opposition to Defendant's Motion  
 Dismiss Plaintiff's Complaint and Reply Brief in Opposition to Defendant's

## Motion To Revoke Plaintiff's In Forma Pauperis Status

7. That, given the above & foregoing reasons, Plaintiff's Second Motion For Enlargement of Time herein, that it is "ludicrous to have expected this plaintiff to file his Reply Briefs in this case, by January 25, 2001, as he does not have his fin & Papers in this case, which he needs in order to enable him to file such Reply Briefs, herein

8. That, based upon the above & foregoing arguments, and upon the fact that the U.S. Magistrate Judge fails to state any reasons at all as to why he denied Plaintiff's Second Motion For Enlargement of Time, in his February 2, 2001, Order, herein, and given that by denying Plaintiff's unopposed Second Motion For Enlargement of Time, the U.S. Magistrate Judge has illegally & unconstitutionally prevented this plaintiff from filing his Reply Briefs in opposition to Defendant's Motion to Dismiss Plaintiff's complaint, and to re Plaintiff's In Forma Pauperis Status and has left such motions unopposed which will cause him to consider such ex parte communication from Defendant, herein, in violation of the controlling law and thus, he "has" clearly abused his discretion



authority & "has" shown favoritism toward the Defendant, herein, and ~~that~~ the Plaintiff's Reply Briefs Opposition, herein, would show, that by law, the Defendant's Motion to DISMISS Plaintiff's Complaint and Motion to Revoke Plaintiff's In Forma Pauperis Status, would have denied, herein, the U.S. Magistrate Judge's Order of Feb 2, 2001, denying, Plaintiff's Second Motion for Enlargement of Time, "was" & "is" contrary to the controlling law and to the doctrines of equal justice & fundamental and must be reversed by the U.S. District Judge, herein this case, on appeal.

(W) HEREBY, Plaintiff John Richard JAE, that the U.S. District Judge will grant this appeal reverse the U.S. Magistrate Judge's Order of Feb 2, 2001, and grant the Plaintiff's Second Motion for Enlargement of Time, herein this case:

AND HE SHALL EVER BE  
RESPECTFULLY SUBMITTED

(S)

*John Richard JAE*  
MR. JOHN RICHARD JAE  
#BR-3219  
SCI-Pittsburgh  
P.O. BOX 99901  
Pittsburgh, PA 15233-0901

Dated: 11th FEBRUARY 2001:

Plaintiff and Pro Se Counsel

From The Desk of:  
MR. John Richard Jae,  
#BQ-3219  
SCI- Pittsburgh  
P.O. 9990  
Pittsburgh, PA 15233-0991  
February 13, 2001

TO: The Office of the Clerk,  
U.S. District Court  
228 Walnut Street  
P.O. Box 983  
Harrisburg, PA 17108-0983

Re: Jae vs. Wexford Health Services, Inc.,  
Civil No. 1: CV-00-1534

*Rgd*  
**FILED**  
HARRISBURG, PA  
FEB 16 2001  
MARY E. D'ANDREA, CLERK  
Deputy Clerk

Dear Clerk:

Please file Plaintiff's Appeal to the U.S. District  
Judge from the U.S. Magistrate Judge's order of February 2, 2001  
herein the above-entitled Civil Rights Action and send  
up to Judge Rambo for her ruling/decision thereon such:

Sincerely,

(s) John Richard Jae  
MR. JOHN RICHARD JAE,  
Plaintiff and Pro Se Counsel

CC: Mr. James D. Huang, Esquire  
w/enc.

Stae vs. Wexford Health Services Inc.,  
CIVIL No. 1:00-CV-00-1534  
CERTIFICATE OF SERVICE

I Certify under penalty of perjury that on 2-13-01, I caused to be mailed to the person listed below a true & correct carbon copy of the within Plaintiff's Appeal to the District Judge from the U.S. Magistrate Judge's Order of February 2, 2001, by 1st Class Mail, Postage Prepaid:

MR. James D. Young, Esquire  
LAVERY, FAHERTY, YOUNG & PATTERSON, P.C.  
ATTORNEYS AT LAW  
P.O. Box 1245  
Harrisburg, PA. 17108-1245

Dated/Executed on:  
13th FEBRUARY 2001:  
At: Harrisburg, Pennsylvania:

(s) John Richard Stae  
MR. JOHN RICHARD STAE  
Plaintiff and Associate Counsel